

OLL 83-2073/5
21 September 1983

MEMORANDUM FOR THE RECORD

SUBJECT: Federal Employees Retirement Contribution
Temporary Adjustment Act of 1983

REFERENCE: A. MFR, Senate Committee on Governmental Affairs
Hearing on Retirement, OLL 83-2073/2 dated
13 September 1983

B. MFR, Same Subject, OLL 83-2073/3 dated
15 September 1983

C. MFR, Same Subject, OLL 83-2073/4 dated
19 September 1983

1. Attached is the final draft of the subject Bill that Senator Ted Stevens (R., AL) had intended to introduce and incorporate into the Budget Reconciliation Bill out of Governmental Affairs (see Reference C). This legislative strategy--in fact the very being of the draft bill--has been changed because of the conflicting and extreme positions being taken on this issue by the two interested parties--the Office of Management and Budget (OMB) and the Federal employee groups, led most prominently by F.A.I.R.

2. The Administration, at the Assistant-Director level in OMB, has refused to support the draft Bill--in fact, will oppose it. OMB does not want any new Civil Service Retirement and Disability System (CSRDS) participants after 31 December 1983, period. OMB will not even support temporary, reduced-benefit CSRDS participation for the interim two-year period as proposed by Senator Stevens. OMB does not believe that Federal agencies will encounter recruiting difficulty in attracting new employees into civilian Federal service. Based upon the belief that Social Security retirement and disability benefits, at least over the short term, are sufficient to allow the filling of all Federal vacancies for the next couple of years, OMB believes the Stevens' legislation to be unnecessary and strongly opposes it.

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3. The employee groups who, I am surprised to find out, carry enormous weight with the Congress, are equally adamant that all new Federal employees hired 1 January 1984 or later must be included in the CSRDS, and remain as participants therein, at least until supplemental retirement legislation is enacted. They are adamant on this issue to protect new Federal employee retirement and disability entitlements, and so as not to create a caste system in the Federal government--i.e., side-by-side employees with significantly different allowance entitlements.

4. Senator Stevens and his Subcommittee are proposing, in the attached draft Bill, a compromise that neither party is willing to accept. The draft Bill provides for CSRDS coverage, as stated in Reference C, for an interim two-year period or until a Federal supplemental retirement program can be passed into law. Until one or both of the warring factions blinks, Senator Stevens is frozen. He will probably introduce the attached draft as a free-standing Bill, get referral to Governmental Affairs, and keep all of his options open.

5. Strong OMB objection to the Bill has probably precluded including it in the Governmental Affairs amendment to the Budget Reconciliation Bill (see Reference C) as originally planned. The staff also believe that Senator Stevens may also attempt to include the Bill as a rider on some other piece of legislation if he can muster the support within the Senate needed to do so.

6. Obviously, the depth of the Administration's opposition to the Stevens' Bill calls into doubt previous assessments that our new employees hired 1 January 1984, or later, will enjoy equal or near-equal retirement and disability benefits during this so-called interim period--1 January 1984 through 31 December 1985. While these developments are occurring on a real-time basis, it now appears that, unless Senator Stevens can muster support in both Governmental Affairs and the Senate as a whole, his legislative solution will not succeed. If such is the case, new employees hired 1 January 1984, or after, will enjoy only Social Security retirement and disability benefits and will clearly consider themselves second-class Federal employee citizens. Until this dynamic situation stabilizes over the next several days, we should not consider involving

the DCI. A week from now, however, his involvement may well be both appropriate and necessary. If neither party has yet blinked, we may well want him to personally apprise Mr. Stockman of the damage the OMB position would do, if sustained, to our Agency-wide employee recruitment effort.

7. This sequence of events continues NOT to impact in any way employees who have been, or will be, sworn in on 31 December 1983 or sooner.

[Redacted Box]
Liaison Division
Office of Legislative Liaison

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Attachment
As stated

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LD/OLL [Redacted Box] (21 September 1983)

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98th CONGRESS
1st Session

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. Stevens introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To provide temporary adjustments in the requirements relating to
contributions to, and credit for the purposes of, certain
Government retirement systems with respect to certain service
performed by certain Federal officers and employees, and for
other purposes.

1 Be it enacted by the Senate and House of Representatives
2 of the United States of America in Congress assembled, That
3 this Act may be cited as the ``Federal Employees' Retirement
4 Contribution Temporary Adjustment Act of 1983``.

5 STATEMENT OF POLICY

6 Sec. 2. It is the policy of the Government--

7 (1) that the amount required to be contributed to
8 public retirement systems by employees and officers of
9 the Government who will also be required to pay
10 employment taxes relating to benefits under title II of
11 the Social Security Act for service performed after
12 December 31, 1983, be reduced until the date on which a
13 new Government retirement system covering such employees
14 and officers is established or January 1, 1986, whichever
15 is earlier;

16 (2) that the Treasury be required to pay into such
17 retirement systems the remainder of the amount such
18 employees and officials would have contributed but for

1 the temporary reduction;

2 (3) that the employing agencies make contributions to
3 the retirement systems with respect to such service in
4 amounts required by law in effect before January 1, 1984,
5 without reduction in such amounts;

6 (4) that such employees and officers accrue credit
7 for service for the purposes of the present retirement
8 systems until a new Government retirement system covering
9 such employees and officers is established;

10 (5) that such employees and officers who are first
11 employed in civilian service by the Government or first
12 take office in civilian service in the Government on or
13 after January 1, 1984, be transferred to such new
14 Government retirement system as may be established for
15 employees and officers of the Government on or after
16 January 1, 1984, and before January 1, 1986;

17 (6) that credit for service performed after December
18 31, 1983, by such employees and officials be transferred
19 to such new Government retirement system; and

20 (7) that any annuity payable under any present public
21 retirement system based in part on service performed
22 after December 31, 1983, and before January 1, 1986, for
23 which employment taxes relating to benefits under title
24 II of the Social Security Act have been paid be offset by
25 the amount of any benefits payable under such title with
26 respect to such service.

27 DEFINITIONS

28 Sec. 3. (a) For the purposes of this Act--

29 (1) the term "covered employee" means any
30 individual whose service is covered service;

31 (2) the term "covered retirement system" means--

32 (A) the Civil Service Retirement and Disability
33 System under subchapter III of chapter 83 of title 5,
34 United States Code;

1 (B) the Foreign Service Retirement and Disability
2 System under chapter 8 of the Foreign Service Act of
3 1980 (22 U.S.C. 4041 et seq.);

4 (C) the Central Intelligence Agency Retirement
5 and Disability System under the Central Intelligence
6 Agency Retirement Act of 1964 for Certain Employees
7 (50 U.S.C. 403 note); and

8 (D) any other retirement system including covered
9 employees (other than a new Government retirement
10 system) under which a participant in the system is
11 required to make contributions to the system in an
12 amount equal to a portion of the participant's basic
13 pay for covered service, as determined by the
14 President;

15 (3) the term "covered service" means service which
16 is employment for the purposes of title II of the Social
17 Security Act and chapter 21 of the Internal Revenue Code
18 of 1954 by reason of the amendments made by section 101
19 of the Social Security Amendments of 1983 (97 Stat. 67);
20 and

21 (4) the term "new Government retirement system"
22 means any retirement system which (A) is established for
23 officers or employees of the Government by or pursuant to
24 a law enacted after December 31, 1983, and before January
25 1, 1986, and (B) takes effect on or before January 1,
26 1986.

27 (b) The President shall publish the determinations made
28 for the purpose of subsection (a) (2) (D) in an Executive
29 order.

30 CONTRIBUTION ADJUSTMENTS

31 Sec. 4. (a) An employing agency shall deduct and withhold
32 only 1.3 percent of the basic pay of an employee under--

33 (1) section 8334 of title 5, United States Code;

34 (2) section 805 of the Foreign Service Act of 1980

1 (22 U.S.C. 4045);

2 (3) section 211 of the Central Intelligence Agency
3 Retirement Act of 1964 for Certain Employees (50 U.S.C.
4 403 note); or

5 (4) any provision of any other covered retirement
6 system which requires a participant in the system to make
7 contributions of a portion of the basic pay of the
8 participant,

9 for covered service which is performed after December 31,
10 1983, and before January 1, 1986.

11 (b) Employing agencies of the Government shall make
12 contributions with respect to service to which subsection (a)
13 of this section applies under the second sentence of section
14 8334 (a) (1) of title 5, United States Code, the second
15 sentence of section 805 (a) of the Foreign Service Act of
16 1980 (22 U.S.C. 4045(a)), the second sentence of section 211
17 (a) of the Central Intelligence Agency Retirement Act of 1964
18 for Certain Employees (50 U.S.C. 403 note), and any provision
19 of any other covered retirement system requiring a
20 contribution by the employing agency, as if subsection (a) of
21 this section had not been enacted.

22 AMORTIZATION OF CONTRIBUTION DEFICIENCY

23 Sec. 5. (a) For the purposes of this section, the term
24 "contribution deficiency", when used with respect to a
25 covered retirement system, means--

26 (1) the excess of the total amount which, but for
27 section 4 (a), would have been deducted and withheld
28 under a provision referred to in section 4 (a) from the
29 pay of covered employees who are subject to such
30 retirement system for service to which section 4 (a)
31 applies, over

32 (2) the total amount deducted and withheld from the
33 pay of covered employees for such service as provided in
34 section 4 (a).

(b) At the end of each of fiscal years 1984, 1985, and 1986, the Office of Personnel Management--

(1) shall determine the amount of the contribution deficiency incurred during such fiscal year in the case of each covered retirement system; and

(2) shall notify the Secretary of the Treasury of the amount of the contribution deficiency in each such case.

(c) An amount equal to the amount of the contribution deficiency incurred with respect to a covered retirement system in any fiscal year shall be credited to the fund established for the payment of benefits under such covered retirement system in thirty equal annual installments beginning at the end of such fiscal year, as provided in subsection (d).

(d) Before closing the accounts for each of fiscal years 1984 through 2015, the Secretary of the Treasury shall credit to each fund to which subsection (c) applies, as a Government contribution, out of any money in the Treasury appropriated for such purpose, an amount equal to the total of the amounts of the annual installments of the contribution deficiencies required by subsection (c) to be credited to such fund in such fiscal year.

(e) There are authorized to be appropriated in each of fiscal years 1984 through 2015, such sums as may be necessary to make the credits required by subsection (c) in such fiscal year.

OFFSET OF SOCIAL SECURITY BENEFITS

Sec. 6. (a) Section 8339 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

“(c) Any portion of an annuity of a retired employee which is computed under subsection (a), (b), (c), (d), (e), (g), or (n) of this section and is based on service to which section 4 (a) of the Federal Employees’ Retirement

1 Contribution Temporary Adjustment Act of 1983 applies shall
2 be reduced by the portion of the amount of the benefits
3 payable under title II of the Social Security Act to such
4 retired employee which is attributable to such service.''.
5

6 (b) Section 806 of the Foreign Service Act of 1980 (22
7 U.S.C. 4046) is amended by adding at the end thereof the
8 following new subsection:

9 "(m) Any portion of an annuity of a participant or
10 former participant which is computed under this section and
11 is based on service to which section 4 (a) of the Federal
12 Employees' Retirement Contribution Temporary Adjustment Act
13 of 1983 applies shall be reduced by the portion of the amount
14 of the benefits payable under title II of the Social Security
15 Act to such participant or former participant which is
16 attributable to such service. The reduction under this
17 subsection shall be calculated before any reduction under
18 section 814 (a) (5).''.

19 (c) Section 221 of the Central Intelligence Agency
20 Retirement Act of 1964 for Certain Employees (50 U.S.C. 403
21 note) is amended by adding at the end thereof the following
22 new subsection:

23 "(p) Any portion of an annuity of a participant or
24 former participant which is computed under this section and
25 is based on service to which section 4 (a) of the Federal
26 Employees' Retirement Contribution Temporary Adjustment Act
27 of 1983 applies shall be reduced by the portion of the amount
28 of the benefits payable under title II of the Social Security
29 Act to such participant or former participant which is
30 attributable to such service. The reduction under this
31 subsection shall be calculated before any reduction under
32 section 222 (a) (4).''.

33 (d) Notwithstanding any other provision of law, for the
34 purposes of any covered retirement system to which an
amendment made by subsection (a), (b), or (c) does not apply,

1 any portion of an annuity of a participant or former
2 participant in such system which is computed under such
3 system and is based on service to which section 4 (a) of the
4 Federal Employees' Retirement Contribution Temporary
5 Adjustment Act of 1983 applies shall be reduced by the
6 portion of the amount of the benefits payable under title II
7 of the Social Security Act to such participant or former
8 participant which is attributable to such service. The
9 reduction under this subsection shall be calculated before
10 any reduction in such annuity provided under the covered
11 retirement system for the purpose of paying an annuity under
12 such system to any former spouse of the participant or former
13 participant based on the service of such participant or
14 former participant.

15 TRANSFER OF CREDIT TO NEW RETIREMENT SYSTEM

16 Sec. 7. (a) Any covered employee who first becomes
17 employed in civilian service by the Government or first takes
18 office in civilian service in the Government on or after
19 January 1, 1984, shall be transferred to such new Government
20 retirement system as may be established.

21 (b) In the case of any covered employee who is subject to
22 a covered retirement system on or after January 1, 1984, and
23 thereafter becomes subject to a new Government retirement
24 system--

25 (1) credit for the service of such employee to which
26 section 4 (a) applies shall be transferred from such
27 covered retirement system to the new Government
28 retirement system for the purposes of the new Government
29 retirement system; and

30 (2) such service shall be considered not to be
31 creditable service for the purposes of such covered
32 retirement system,
33 effective on the date on which such employee becomes subject
34 to such new Government retirement system.